

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)
)
 v.) No. 1:12-cr-00007-JAW
)
KIZZY FADER)

**ORDER AFFIRMING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

On August 26, 2019, Kizzy Fader filed a motion to reduce her sentence pursuant to 18 U.S.C. § 3582(c)(1)(A), the First Step Act of 2018, and the Fair Sentencing Act of 2010. *Expedited Mot. to Reduce Sentence Pursuant to 18 USC 3582(c)(1)(A), First Step Act, 2018 Article III, Section 404 Fair Sentencing Act, 2010* (ECF No. 119). The United States (Government) filed a response on September 18, 2019. *Gov't's Resp. in Opp'n to Mot. to Reduce Sentence Pursuant to the First Step Act (ECF No. 119)* (ECF No. 124). On October 4, 2019, Ms. Fader filed a reply. *Obj. to Gov't's Resp. in Opp'n to Def.'s Mot. to Reduce Sentence Pursuant to First Step Act, 2018* (ECF No. 125). On December 5, 2019, the United States Magistrate Judge filed with the Court his Recommended Decision, in which he recommended that the Court deny Ms. Fader's motion. *Recommended Decision on Mot. to Reduce Sentence* (ECF No. 126) (*Recommended Decision*). Ms. Fader did not object to the Recommended Decision.

Although Ms. Fader waived her right to de novo review by not objecting to the Recommended Decision, the Court reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; the Court has made a de

novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and the Court concurs with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determines that no further proceeding is necessary.

Additionally, the Court must dismiss Ms. Fader's request for compassionate release pursuant the 18 U.S.C. § 3582(c)(1)(A) because the exhaustion requirement is mandatory, *see United States v. Lugo*, 2:19-cr-00056-JAW, 2020 U.S. Dist. LEXIS 63673, at *8 (D. Me. Apr. 10, 2020), and Ms. Fader fails to present evidence that she exhausted administrative remedies within the Bureau of Prisons before filing her petition.

1. The Court AFFIRMS the Recommended Decision of the Magistrate Judge (ECF No. 126).
2. The Court DENIES Ms. Fader's Expedited Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A), First Step Act, 2018 Article III, Section 404 Fair Sentencing Act, 2010 (ECF No. 119) in all aspects except the request for compassionate release.
3. The Court DISMISSES WITHOUT PREJUDICE Ms. Fader's Expedited Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A), First Step Act, 2018 Article III, Section 404 Fair Sentencing Act, 2010 (ECF No. 119) to the extent it moves for compassionate release under 18 U.S.C. § 3582(c)(1)(A).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 26th day of May, 2020